

IN THE MATTER OF ARBITRATION

-between-

THE TEAMSTERS LOCAL 695

-and-

**THE CITY OF MONONA (Fire Dept.)
MONA, WISCONSIN**

OPINION & AWARD

Interest Arbitration

**W.E.R.C. CASE 35
NO. 51191 MIA - 1908
Decision No. 28197-A**

**Before: Jay C. Fogelberg
Neutral Arbitrator**

Representation-

For the Union: Marianne Goldstein Robbins, Attny.

For the City: Jack D. Walker, Attny.

SEP 29 1994

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

Statement of Jurisdiction-

On November 29, 1994, the Wisconsin Employment Relations Commission appointed the undersigned to serve as the Neutral Arbitrator ordering that arbitration be initiated for the purpose of resolving the impasse arising from the collective bargaining process between the Teamsters Union Local 695, representing the Fire Fighter/EMT employees, and the City of Monona Fire Department, relative to the single issue of wages for the successor Labor Agreement.

Pursuant to Section 111.77 of the Municipal Employment Relations Act ("Act") the parties had met to exchange initial proposals for a new Contract covering the calendar years 1994 and 1995. Thereafter, they arrived at a tentative agreement on all

matters, save the issue of wages for the term of their new Agreement. Then, on June 24, 1994, the Union filed a petition requesting the Commission to initiate compulsive final and binding arbitration. Subsequently an investigation was undertaken by the Commission, and on October 7, 1994, an impasse was declared and the parties ordered to binding arbitration. A hearing was then conducted in Mona on April 18, 1995. At the conclusion of the proceedings on that date, the parties requested the opportunity to submit summary written arguments to the Arbitrator, and reply briefs as well. The final documents were received on or before July 17, 1995, at which time the hearing was deemed officially closed.

The Issues-

A single issue involving the wages to be paid to the members of the bargaining unit in 1994 and 1995, remains outstanding.

Relevant Background Information-

The adduced evidence demonstrates that Monona ("City" or "Employer") is a suburban community located adjacent to the City of Madison. Within its Fire Department there are six full-time Fire Fighters/Emergency Medical Technicians (EMTs) that comprise the bargaining unit involved in this dispute. They work along with volunteers when responding to fire and other ambulance calls. Normally they are the first to respond to a call. They make a determination which is the most appropriate

vehicle to utilize when answering a particular call, drive to the scene and then direct the volunteers as they arrive, unless and until a senior officer is present. When not involved with responding to emergency calls, members of the bargaining unit perform other tasks for the City such as public education and building inspection to assure code compliance. The majority of the men and women occupying this classification have been working for the City for over ten years.

In 1991, the parties participated in an interest arbitration before another neutral (Gil Vernon). As with the current dispute, the only issue before the arbitrator at that time concerned a wage increase. In selecting the Union's final offer, Arbitrator Vernon concluded that this bargaining unit compares most favorably with two other municipalities that are within the geographical proximity to Monona: Stoughton and the Town of Madison. His award then, resulted in a wage rate that fell somewhere between the salaries paid to employees working at comparable positions in both Stoughton and the Town of Madison. For the 1992-1993 contract term, the parties reached a voluntary settlement, and again utilized these same two communities for comparison purposes.

Position of the Parties-

The Union takes the position that effective January 1, 1994, the starting rate for members of this bargaining unit should be increased by 21¢ per hour, and 23¢ per hour

at the top step.¹ Effective July 1, 1994, they seek an additional increase of 45¢ at the starting rate, and 50¢ at the top (\$9.50 per hour). For the second year of the new Agreement, the Teamsters propose an additional split increase of 23¢ at the entry level on January 1st, and 25¢ per hour on the one year rate. On July 1st they are asking for a repeat of these same two hourly increases for the balance of the term, resulting in a top rate of \$10.00/hour.

Conversely, the City offers the following split increase in the hourly rates for calendar years 1994 & 1995. Effective January 1, 1994 the starting rate would be increased by 16¢ per hour, and the top rate by 18¢. In July of that same year, they propose an additional adjustment of 26¢ at the entry level, and 28¢ per hour at the top rate. For the second year, they offer an adjustment of another 21¢ effective January 1st, at the starting hourly rate (\$8.77/hour) and 22¢ for the one year rate (\$9.45/hour). Finally, in July of 1995 their proposal includes another increase of 20¢ for the starting rate, and 22¢ per hour added to the top rate (\$9.67/hour).

Analysis of the Evidence-

Under the applicable provisions of Wis. Stats. §111.77(6) the arbitrator appointed to hear evidence and render an award in matters such as this, is obligated to select the

¹ There are only two steps on the wage schedule, and nearly all members of the bargaining unit have been with the City for at least one year.

final certified offer of one of the parties. Additionally, the neutral must consider the eight or nine criteria enumerated in Act when examining the data and arguments submitted by each, in support of their respective positions. In weighing the merits of the Union's and the City's respective proposals for the wage rates that will apply during the term of their 1994-95 collective bargaining agreement, I have given careful consideration to such factors as the comparison of wages and conditions of employment with other employees performing similar services who are located within the geographic proximity of Monona, as well as the wage adjustments gained by other bargaining unit personnel within the City itself. Additionally, I have considered any increase in the cost of living, the ability of the Employer to fund a wage adjustment, and other factors outlined in the statute.

Distilled to its basic elements, the Union's argument centers on the concept of closing the "gap" which they contend currently exists between the Fire Fighter/EMT employees in the City and those performing similar duties in comparable communities in the surrounding area, and with the police officers within Monona. Externally, the Local believes that the Town of Madison, as well as the Cities of Stoughton, Portage, Watertown and Fitchburg should be considered as a basis for comparison. They acknowledge that the experience of these communities varies and that they do not necessarily coincide in every instance with the City of Monona's Fire Department. For example, Fitchburg - also a suburb of the City of Madison - has a full-time fire fighting staff which is not unionized. Additionally, Portage fire fighters do not perform as

EMTs, and the Watertown department employees do not generally rotate through both positions as they do here. Nevertheless, the Local maintains that collectively these cities offer a broad base which may be utilized to compare the respective final positions of the parties - something that the Employer has not presented.

The City's argument, on the other hand, stresses the 1991 arbitration decision involving the same issues. In that instance, the neutral favored the Union's position in awarding a wage increase that fell between the wages offered by Stoughton and the Town of Madison (Union's Ex. 13, p. 14). In making his decision, the arbitrator reasoned that the bargaining unit in Monona did not possess all of the same skills and training as the Fire fighters/EMTs in the Town of Madison, but had more responsibilities than their counterparts in Stoughton where the employees have no EMT training or experience. The arbitrator classified both the Stoughton personnel and the Monona employees as "second-line or secondary Fire fighters" (*id.* p 12).

It is readily apparent that both the Union and the City have emphasized external comparables in making their arguments. In their opening remarks, the Local made reference to the 1991 decision and indicated that the placement of Monona between Stoughton and the Town of Madison was not inappropriate (Tr. pp. 9-10). While they have included additional municipalities for comparison purposes in the instant dispute, it is noted that they had made the same argument in 1991 before Arbitrator Vernon. While the Union's position was favored at that time, the neutral clearly rejected these other cities, concluding rather that Monona's wage schedule compares most reasonably

with Stoughton and the Town of Madison.

It is noted that Vernon began his discussion of the evidence in 1991 with the observation that the case was difficult, "...in that there simply are not any truly comparable employees within a reasonable proximate geographic distance" to Monona (*id.* p. 12). Given some of the apparent differences in training and skills between the fire fighting personnel among the three communities, and the arbitrator's observations four years ago, one might argue that Stoughton and the Town of Madison do not constitute a fair basis for comparison purposes. Such a claim however, ignores the negotiations that took place in 1992. In my judgement the voluntary settlement that was reached at that time is significant. The adduced evidence plainly demonstrates that the parties utilized the wage rates in Stoughton and the Town of Madison as a reasonable measurement for arriving at new wage rates for the 1992-93 Agreement. It is well settled that the past bargaining history of the parties to a dispute such as this, and more particularly the criteria they have routinely utilized in negotiations, serves as a valid guide to the interest arbitrator. Hurley Hospital, 56 LA 209 (1971). The evidence placed into the record in this instance indicates clearly that the parties themselves when reaching a voluntary settlement of their previous contract, continued to utilize the external comparables identified in the 1991 decision as a reasonable gauge for their own wage rates. Accordingly, I find no compelling evidence to disturb that pattern at this time.

An implementation of either final position would result in the continuation of a

wage rate that falls somewhere between that paid in Stoughton and in the Town of Madison. The question remains however, which one most closely parallels the prior decision and the practice of the parties. After reviewing the record, I conclude that the *City's offer is the more consistent of the two.*

The evidence shows that in 1991 Stoughton's top hourly rate for its fire fighting personnel was \$7.71. Vernon's adoption of the Union's position at that time placed Monona's wage rate at \$7.76 for the same contract year - a difference of 5¢. This was only slightly above Stoughton's rate (.0065%). In 1992, the parties agreed to increase the hourly rate to \$8.27, which was 20¢ above Stoughton's for that same year. This represented a percentage increase that brought further separation between these two communities (approximately 2½%) and placed Monona closer to the Town of Madison's top rate. In 1991, the latter paid their fire fighting personnel an hourly rate of \$8.92 which was 15% above Monona's. In 1992, the same comparison shows that the Town of Madison's top rate cannot be made as that data was not placed into the record. However, in 1993 that employer paid its fire fighters \$10.56 per hour. This amounted to a rate that exceeded Monona's by \$1.79 for the same year, resulting in a differential approaching 20% over the rate that was agreed to by the parties for that same year (Union's Ex. 12; City's Exhibits 19-20).

Were the Union's position to be adopted here, it would represent a departure from the pattern that has been established over the past four or five years. The top

hourly rate in Monona by the end of 1994 would be \$9.50 under the Local's proposal, versus \$9.23 utilizing the City's. Thus, the Union's request would result in an hourly differential between Monona and Stoughton of 61¢, or nearly 7%. Conversely, the Employer's final offer represents a difference of 34¢ per hour by year's end (\$8.89 vs. \$9.23) or 3.8%. While both positions will continue to increase the gap between Stoughton and Monona, I find the City's more closely parallels what the parties agreed to in 1992-93. As regards the Town of Madison, the evidence shows that the adoption of the Employer's position would bring about an increase in the gap between the two municipalities (by 8¢ in 1994, and 25¢ in 1995). However, this amount is not as great as the 63¢ differential which resulted from the parties' voluntary settlement for the previous contract term (Union's Exs. 1 and 8).

The Union has argued in this proceeding that the Employer's final offer must be rejected because it falls *below* the Stoughton hourly rate based upon their computations. The record shows that Monona and Stoughton do not calculate their overtime in a similar manner. The former utilizes a formula allowed under the Fair Labor Standards Act, not applied in Stoughton (Tr. p. 29). According to the Local, Stoughton pays their fire fighters overtime for all hours worked in excess of forty, rather than applying the 182 hours per work schedule allowed under federal regulations. This, in the Union's view, results in sixteen hours of overtime per week, or the equivalent of an additional eight hours of pay each week (Tr. p. 34). Thus, they argue, the only fair comparison

between the two communities is on an annual or monthly salary basis.

The Local's argument however, essentially ignores what has transpired previously. The record shows that while Arbitrator Vernon described the Union's argument in this regard only in passing (at p. 5). As the Employer points out, the neutral in the earlier dispute adopted the Union's offer comparing the straight hourly rates of Stoughton, Monona and the Town of Madison, notwithstanding the fact that the Local made the exact same argument regarding overtime in that proceeding. The "maximum hourly rate" was the measurement used by the arbitrator (Union's Ex. 13; p.14). Additionally, these same straight hourly rates were utilized in the 1992-93 negotiations when the parties settled on a new contract (City Exs. 19 & 20).

The Union further claims that while the value of internal comparisons is limited in this instance given the lack of any historical "pattern" (and I would concur) they nevertheless believe that an exception exists as it pertains to the police bargaining unit. Their argument essentially is that there is a "special relationship" between the police and fire units that cannot be ignored. Citing the potential hazards of both occupations, the irregular hours, and the fact that fire fighters are paired with police under the state's arbitration statute, the Local contends that the Fire fighter/ EMTs in Monona should receive a wage that more closely parallels the compensation paid to the City's police personnel. Finally, they assert that if their position is adopted, the gap that currently exists between the two bargaining units would be diminished.

Without a history of parity however, I am most reluctant to credit such an

argument. While other communities in the state may have a documented parallel relationship in wage adjustments between its police and fire departments, no evidence of a similar experience is present currently in Monona. Moreover, I note that an adoption of either side's final position will bring about a reduction in the disparity between the two wage rates by the end of 1995 (Tr. p. 30).

Further evidence supporting the conclusion reached here is found in a review of the consumer price index and the Employer's ability to fund a wage increase. With regard to the former, I conclude that an implementation of the City's final offer (estimated to total nearly ten per cent over two years) exceeds the increase in the consumer price index. That is, the Employer's data (Exhibits 26 & 27) demonstrates that the increase in the CPI for the period in question will be more than offset by an adoption of their final position. The same result occurs even if the measurement used is the cost of living index for Milwaukee and the Minneapolis/St. Paul area (the Union's preference) for the same two years, which is slightly higher than the national average.

Finally, I am persuaded that the City's offer is most reasonable when their financial data is considered. In this regard, the Employer introduced documentation indicating that Monona has the slowest growth rate in its tax base among the fourth class cities in Dane County (City's Ex. 17).

Award-

Accordingly, for the reasons enumerated above, the City's final position is selected.

Respectfully submitted this 25th day of September, 1995.



Jay C. Fogelberg, Neutral Arbitrator